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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/491,974	01/27/2000	Connie S. Schmaljohn	003/115/SAP RIID96-10	9304

7590 01/10/2002
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EXAMINER

WOITACH, JOSEPH T

ART UNIT PAPER NUMBER

1632

DATE MAILED: 01/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/491,974

Applicant(s)

Schmaljohn, C. et al.

Examiner

Joseph T. Weitach

Art Unit

1632



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Nov 23, 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search. (See NOTE below);
- (b) ☐ they raise the issue of new matter. (See NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: Claim 16 is unclear in the relationship of the two SEQ IDs and the promoter. Claim 17 recites a new embodiment for the protection to a separate and distinct virus, and raises issues regarding 112 1st.

4. ☐ Applicant's reply has overcome the following rejection(s):

5. ☒ Newly proposed or amended claim(s) 3 would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s).

6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Applicants' arguments are directed to claim amendments which have not been entered.

7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):

Claim(s) allowed: 1, 4, and 7

Claim(s) objected to: _____

Claim(s) rejected: 3, 9, 10, 12, 13, 16-20, 22-24, 26, and 27

9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.

10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).

11. ☒ Other: Proposed amendments to claim 3 recite embodiments indicated as enabled.

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